

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

AMCO INSURANCE COMPANY, and
DEPOSITORS INSURANCE COMPANY

Plaintiffs,

V.

COLUMBIA MAINTENANCE COMPANY, ET AL.,

Defendants

Case No.: 4:19-cv-02202-SRC

PLAINTIFFS AMCO AND DEPOSITORS’
MOTION FOR SUBSTITUTION OF THE PERSONAL REPRESENTATIVES FOR
DECEASED RESPONDENT WILLIAM HAUSMAN PURSUANT TO RULE 25(A)(1)

3. On December 31, 2020, this Court granted summary judgment in favor of Plaintiffs AMCO and Depositors, and entered Judgment in favor of Plaintiffs and against Defendants on all claims asserted in Plaintiffs' Joint Petition for Declaratory Judgment, thereby fully and finally disposing of all claims pending before this Honorable Court in this matter. (**Exhibit B**, Memorandum and Order; **Exhibit C**, Judgment). In so doing, the Court noted that a Suggestion of Death had been previously filed, and no party had moved to substitute a different party on account of Mr. Hausman's death.

4. As the Court is aware, Defendants claim that a proper party should have been substituted for Mr. Hausman prior to the entry of Judgment. In accordance with Plaintiffs' Response to Defendants' Motions to Vacate the Judgment, Plaintiffs hereby request that the Court substitute Russell J. Hausman, Frank T. Hausman and Elizabeth J. Felton, as personal representative for the Estate of William Hausman, in place of decedent William Hausman as a proper party to represent the interests of William Hausman in this matter for all purposes going forward

6. Russell J. Hausman, Frank T. Hausman and Elizabeth J. Felton were appointed as co-Personal Representatives for the Estate of William Hausman on or about February 5, 2021, following the filing of an Application for Probate of a Will, and a Petition for Letters Testamentary in the Probate Division in the Circuit Court of St. Louis County. (**Exhibit D**, Letters Testamentary, **Exhibit E**, Notice of Letters Testamentary Granted).

7. The pleadings to begin the process of opening the Estate of William Hausman were not filed by the Estate's attorney until January 14, 2021, such that an Estate was not yet open or in the process of being opened at the time the Court entered its Judgment in this matter. (**Exhibit F**, Application for Probate of Will; **Exhibit G**, Petition for Letters Testamentary).

8. Rule 25(a)(1) of the Federal Rules of Civil Procedure provides that “If a party dies and the claim is not extinguished, the court may order substitution of the property party. A motion for substitution may be made by any party or by the decedent’s successor or representative . . . within 90 days after service of a statement noting the death . . .” See FRCP 25(a)(1) (2020).

9. Accordingly, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs now respectfully request that this Court substitute Russell Hausman, Frank T. Hausman and Elizabeth J. Felton, as duly-appointed co-personal representatives of the Estate of William Hausman, in place of Defendant William Hausman as proper parties to represent the interests of William Hausman in this matter for all necessary purposes going forward, and grant whatever further relief this Court deems just and proper. A copy of this pleading is being served on the co-personal representatives’ registered agent in the State of Missouri.

Respectfully submitted,

/s/ Russell F. Watters

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AMCO Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of February, 2021, the foregoing was filed electronically with the Clerk of the Court to be served on counsel of record by operation of the Court's electronic filing system, and also by regular U.S. Mail, postage pre-paid and electronic mail, upon the following:

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/s/ Russell F. Watters

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